

Exhibit 9

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5 IN RE: NATIONAL : HON. DAN A.
 PRESCRIPTION OPIATE : POLSTER
6 LITIGATION :
 : NO.
7 APPLIES TO ALL CASES : 1:17-MD-2804

8
9 - HIGHLY CONFIDENTIAL -
10 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

11
12 - - -
13 JANUARY 15, 2019

14 - - -
15 Videotaped deposition of
 ANDREW BOYER, held at the offices of
16 BRESSLER AMERY & ROSS, 325 Columbia
 Turnpike, Florham Park, New Jersey, on
17 Tuesday, January 15, 2019, beginning at
 approximately 9:50 a.m., the proceedings
18 being recorded stenographically by Gail
 Inghram Verbano, Registered Diplome
19 Reporter, Certified Realtime Reporter,
 Certified Shorthand Reporter (No. 8635),
20 and transcribed under her direction.

21
22
23
24 Videotape technician: Eric Davidson

1 A. Since February of last year,
2 so February of 2018.

3 Q. So Teva -- I believe the
4 record reflects that Actavis was acquired
5 by Teva in 2016, perhaps around August of
6 2016.

7 Does that sound correct to
8 you?

9 A. That's correct.

10 MR. ERCOLE: Object --
11 objection to form.

12 THE WITNESS: Whatever entity I
13 was working for, I became a part of
14 Teva in 2016.

15 BY MR. KIEFFER:

16 Q. Okay. And when you became
17 part of Teva in 2016, you just referred to
18 it as "Teva" right?

19 A. I believe it was Teva USA, but
20 I don't want to guess. But I was part of
21 the US organization. I also had control of
22 Canada, so I don't know the exact entity.

23 Q. Okay. We'll call it Teva for
24 purposes of today's deposition.

1 So you were employed by Teva
2 beginning with the acquisition in roughly
3 August of 2016 until you assumed your
4 current position in approximately February
5 of 2018?

6 MR. ERCOLE: I'm going to
7 object, because I think the witness has
8 specified that it was Teva USA. If we
9 can have an agreement that when you're
10 referring to "Teva," it's Teva USA,
11 then that's fine.

12 BY MR. KIEFFER:

13 Q. That's fine, if that's your
14 understanding of who your employer was.

15 A. Perfectly fine.

16 Q. Okay. All right. So you
17 worked for Teva from that period of time,
18 August of 2016 until about February of
19 2018?

20 A. That is correct.

21 Q. Okay. What was your title at
22 the time you worked for Teva?

23 A. President and CEO of North
24 America.

1 Q. And as president and CEO of
2 Teva North America, were you -- did your
3 job entail only the generic side of Teva's
4 bills or branded products as well?

5 A. Generics only.

6 Q. From the period of time
7 beginning with your employment with Watson,
8 starting in 1998, did you work exclusively
9 on the generics side of the business?

10 A. Generics only.

11 Q. Has -- your pharma career,
12 since at least 1998, has been generics
13 only?

14 A. That is correct.

15 MR. KIEFFER: Pull up document
16 1720.

17 - - -

18 (Teva-Boyer No. 001 was marked for
19 identification.)

20 - - -

21 BY MR. KIEFFER:

22 Q. Sir, I've just handed you what
23 we have marked as Exhibit 1. This is a
24 document that was provided to us in this

1 litigation by counsel for Teva, actually
2 from your electronic custodial files.

3 Having done this process
4 before, you're probably familiar with the
5 fact that parties exchange documents in
6 litigation?

7 A. Yes.

8 Q. Okay. This particular one has
9 a number in the lower right-hand corner.
10 For the record, I'm going to have to state
11 them today. I apologize. They're a little
12 cumbersome, but we want our record to be
13 complete.

14 This one is
15 TEVA_MDL_A_09643590, and this a -- appears
16 to be a PowerPoint presentation dated --
17 "Welcome to Teva Pharmaceutical Industries,
18 Ltd," dated 2017. And, again, for the
19 record, this came from Mr. Boyer's
20 custodial files.

21 As a prefatory question, sir,
22 I'm assuming in the time that you were at
23 Watson and then Actavis and then Teva, from
24 time to time, you would receive PowerPoint

1 presentations in various forms that
2 pertained in some form or fashion to your
3 job.

4 A. Yeah, I'm sure of that.

5 Q. Companies use PowerPoints a
6 lot, and Actavis and Watson and Teva are no
7 different; right?

8 A. I guess.

9 Q. Okay. This particular one --
10 let me ask you some questions about some of
11 the statements in here and see if you're
12 familiar with them.

13 Teva is -- it's one of the
14 world's largest pharmaceutical companies;
15 correct?

16 A. I don't know how --

17 MR. ERCOLE: Object to the
18 form.

19 THE WITNESS: I don't know how
20 you're qualifying "largest
21 pharmaceutical companies," but -- I
22 don't know.

23 BY MR. KIEFFER:

24 Q. How about in generics? Is it

1 it did undertake certain promotional
2 activities with respect to its generic
3 products, they just may have been different
4 promotional activities than the kind that
5 happened on the branded side of the
6 organization; true?

7 MR. ERCOLE: Objection to form.

8 THE WITNESS: Almost zero, when
9 I was in charge of -- of the
10 Watson/Actavis organization. I didn't
11 believe in spending dollars on product
12 and/or company promotion, because I
13 didn't believe that we could influence
14 the procurement of buyers that way.

15 If we did company promotion, it
16 was to let them know that we were
17 investing in R&D or that we had a great
18 supply chain or something along those
19 lines. But very little beyond that,
20 unlike the brand side of the business.
21 It was very different.

22 BY MR. KIEFFER:

23 Q. So no promotion at all when
24 you were in charge?

1 A. Almost zero.

2 You'd have to show me my
3 budgets, but I will show -- I will go
4 through them and show you how little
5 promotion we did of the company or the
6 products --

7 Q. And -- I'm sorry.

8 A. -- if any.

9 Q. Okay. And when you say you
10 did little, if any, promotion of the
11 company or the products, you're meaning the
12 products across the whole product line, all
13 the generics, not just opioids?

14 A. Across everything, all
15 generics.

16 Q. Okay. So, for example, things
17 like print advertising, internet
18 advertising, recruitment of key opinion
19 leaders, those were not things that were
20 done when you were at Actavis and then
21 later Teva, in charge of the marketing
22 function?

23 A. Not on the generic side of the
24 business.

1 Q. Okay. Not at all?

2 A. Not at all.

3 Q. Didn't engage in any kind of
4 cross-company -- meaning joint marketing
5 and promotion efforts of generic
6 products -- with other manufacturers of
7 generics --

8 MR. ERCOLE: Objection to form.

9 THE WITNESS: No.

10 BY MR. KIEFFER:

11 Q. -- to increase overall market
12 demand?

13 A. No.

14 Q. The notion -- or the old
15 phrase, a rising tide lifts all boats;
16 right?

17 A. No.

18 Q. Never did that?

19 A. No.

20 Q. Okay. So if you turn to Page
21 16 of Exhibit 7, there is a little slide
22 that says, "Marketing Communications:
23 Electronic."

24 Do you see that?

1 A. Yes.

2 Q. Okay. Up top in the "From"
3 line, it says it's from "Drug Store News."

4 Do you see that?

5 A. Yes.

6 Q. You know who Drug Store News
7 is?

8 A. Yes.

9 Q. It's a big trade publication?

10 A. One of the trade publications.

11 Q. All right. I'll just
12 represent to you, Mr. Myers testified that
13 this was some electronic advertising that
14 would have appeared in Drug Store News.

15 A. Okay.

16 Q. The particular ad to the right
17 is captioned "Demand, meet supply." And
18 it's for oxycodone hydrochloride tablets in
19 15 -- blow that up -- in 15- and
20 30-milligram strengths.

21 My question to you is: Is it
22 your testimony that, in the time you were
23 at Actavis, you never approved advertising
24 of this kind whatsoever?

1 MR. ERCOLE: Objection to form.

2 THE WITNESS: If we did

3 anything -- and you'd have to go back

4 and ask either Napoleon or the

5 marketing team -- it was either "now

6 available" products or "coming soon"

7 products, but really nothing that would

8 say anything more than that.

9 BY MR. KIEFFER:

10 Q. Okay. You did mention, I

11 think in a prior answer, that insofar as

12 marketing or promotion during your time --

13 A. Yeah.

14 Q. -- running that side of the

15 organization, that you might have

16 undertaken some marketing or promotional

17 activities that would focus on the nature

18 of the company's supply chain?

19 MR. ERCOLE: Objection to form;

20 mischaracterizes testimony.

21 BY MR. KIEFFER:

22 Q. I don't want to

23 mischaracterize your testimony.

24 A. So what I would say is, is

1 that if we were doing corporate ads, there
2 were ads that we did saying that we have
3 one of the best service levels in the
4 industry. There were ads saying that we
5 had a very strong R&D pipeline. So things
6 of that nature.

7 I could have -- you know, we
8 did do some of those -- I just don't
9 remember what points in time, whether it
10 was Watson, it was Actavis, but we did do
11 some of that. I just don't recall anything
12 product-specific.

13 Q. Okay. Any sort of email
14 blasts that you recall?

15 A. So email blasts that we would
16 send out were "now available." In other
17 words, we would send it out to wholesalers,
18 distributors, chains, saying that this
19 product is now approved and we are now
20 shipping. So those type of initiatives we
21 would do.

22 We had a brand-to-generic
23 guide, which gave the brand name and the
24 generic name, so the pharmacist would know

1 the equivalents of certain products.

2 Q. Okay.

3 A. We also did a brochure that
4 showed all the names of our products, and
5 the color, shape and size of the tablet or
6 capsule, as well the publicly listed
7 prices -- wholesale acquisition cost or
8 suggested wholesale price.

9 But beyond that, I'm -- off
10 the top of my head, I do not recall any
11 real advertising or promotion, per se.

12 Q. Okay. Let me ask you about a
13 couple more things, and then I'm going to
14 move on from this exhibit.

15 If you turn to Page 12. Page
16 12 is entitled "Marketing Communications:
17 Corporate Ads."

18 Do you see that?

19 A. Yes.

20 Q. And there are some specific
21 products listed by name on the left-hand
22 side.

23 My only question is: Based on
24 what you just told us, during your time

1 15 products. But if you look at the
2 top 3 or 4 or 5, they were 8, 9, 10
3 times the size of the other ones that
4 you're looking at.

5 BY MR. CRAWFORD:

6 Q. So, I mean, you were
7 pushing -- pushing the generic Suboxone,
8 the buprenorphine/naloxone pretty hard;
9 right? I mean, you did do -- you made
10 efforts to try to get this -- get the word
11 out about it being available; right?

12 MR. ERCOLE: Hold on.

13 Objection to form, compound,
14 mischaracterizes or -- you know,
15 improper use of the word "push."

16 THE WITNESS: Yeah, it's a nice
17 sound bite that you're trying to take
18 and push across, but that's not the
19 reality.

20 We sell 300 products in our
21 portfolio, and all of these products,
22 we spent time with our customers trying
23 to drive our market share and our --
24 maximizing the value of our assets.

1 BY MR. CRAWFORD:

2 Q. So you're doing it for both
3 your Class II, Schedule II opioids and your
4 opioid treatment drugs; right? They made
5 the top 15, three of them?

6 MR. ERCOLE: Objection to form;
7 vague. I'm not sure what you mean by
8 "it," but objection to form.

9 THE WITNESS: We don't detail
10 products, as I've said before. These
11 are not brands, these are generics. We
12 offer up a price and we offer up a
13 consistent supply in our supply chain
14 and hopefully quality products, as said
15 by the FDA. That's what we do.

16 There's no pushing, there's no
17 detailing, there's nothing else there.

18 BY MR. CRAWFORD:

19 Q. Okay. Did Actavis, or Watson
20 at the time, whatever they were called --
21 Watson became Actavis; correct?

22 A. Watson changed its name to
23 Actavis.

24 Q. Right. After it bought

1 Actavis?

2 A. That is correct.

3 Q. Okay. So at one point in
4 time, had you heard of Actavis trying to
5 get approval for a generic form of
6 fentanyl -- or of Fentora?

7 A. I don't recall.

8 Q. You mentioned before RiskMAPs
9 or REMS. Have you ever heard of those
10 terms?

11 A. Yes.

12 Q. And you're aware that a number
13 of Actavis products were subject to an
14 FDA-mandated RiskMAP or REMS; correct?

15 A. Actavis when?

16 Q. Actavis while you were there,
17 any time.

18 A. Well, can't be any time.
19 Remember, we bought them at a certain point
20 in time. So I don't know if, prior to the
21 transaction of Watson buying Actavis, what
22 they were working on, from a Fentora or any
23 other risk management product.

24 So if you've got a point in